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Committee on the Elimination of Racial Discrimination
Eighty-ninth session

Summary record of the 2427th meeting
Held at the Palais Wilson, Geneva, on Thursday, 28 April 2016, at 10 a.m.

Chair: Ms. Crickley

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***Combined second to fifth periodic reports of Oman* (continued)**

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The meeting was called to order at 10.05 a.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Combined second to fifth periodic reports of Oman (continued) (CERD/C/OMN/2-5 and CERD/C/OMN/Q/2-5)

1. *At the invitation of the Chair, the delegation of Oman took places at the Committee table.*

2. **Mr. Al Hadrami** (Oman), referring to the issue of labour disputes, said that complaints were referred to a dispute settlement department so that they could be resolved amicably. If that proved impossible, the complaint was referred to the competent courts. All individuals were entitled by law to appeal against court rulings. The Supreme Court registry recorded all cases of labour disputes, and statistics in that regard would be made available to the Committee.

3. With regard to migrant workers and the sponsorship (*kafala*) system, all foreign workers were free to change occupation. Employers were entitled to retain an employee's passport but it would be returned upon request. The Omani Labour Code satisfied international standards and members of the Government worked with the International Labour Organization (ILO) in implementing ILO conventions.

4. The term "domestic worker" was not used in Oman. Such workers were treated in the same manner as any other employee, irrespective of their nationality. Ministerial decrees had been issued regarding the labour conditions of domestic workers, who were able to file complaints before a court in the event of ill-treatment. Perpetrators of ill-treatment against domestic workers were punishable by law. Offences under the Human Trafficking Act were subject to a term of imprisonment of up to 7 years.

5. All workers had the right to join trade unions irrespective of their nationality, and minimum wage requirements were respected in accordance with the law. Omani and non-Omani workers received equal treatment. However, certain businesses provided foreign workers with housing allowances or study grants. Media campaigns had been launched to raise awareness of labour rights. Statistics on workers, disaggregated by nationality, would be forthcoming. Agencies for the recruitment of foreign workers were regulated by law. The Criminal Code prohibited the recruitment of minors and the minimum legal age of a worker recruited from abroad was 21 years.

6. With regard to the administration of justice, numerous mediation and conciliation committees had been established under the Mediation and Conciliation Act as an alternative dispute settlement method, thereby lightening the caseload of the courts, given that court trials were often lengthy and involved numerous stages. The members of the committees were aware of the social background of the persons involved in the dispute and were well placed to seek a definitive solution. Every province with a court of first instance had a mediation and conciliation committee and a judge from the court presided over the committee's proceedings and validated its rulings. Appeals could be lodged in certain circumstances but no such cases had yet been recorded. Approximately 85 per cent of disputes brought before the committees were resolved through conciliation. Complaints not previously filed in a court could be brought before a committee. If the dispute could not be resolved by the committee, it could be considered by a court of first instance.

7. **Ms. Al Raqishi** (Oman), referring to the question of nationality, said that children in most cases received the nationality of their fathers, and in some cases that of their mothers. In accordance with the Nationality Act, Omani nationality was granted to children with an Omani father even if the mother was not Omani. A child with no recognized father who

was born to an Omani mother was also granted Omani nationality, as were children born in Oman whose fathers were stateless. Children born to an Omani mother and foreign father were treated as Omani with regard to the provision of education and health care. Ministerial decisions had been issued to allow such children to pursue higher education in Oman and to entitle them in certain cases to receive medical care abroad free of charge. There were no recorded cases of statelessness among children in Oman as all children born in Oman to parents of unknown nationality were granted Omani citizenship.

8. Women were able to work in any post within the judiciary and not just within the Office of the Public Prosecutor. Under article 3 of the Interpretation and General Provisions Act No. 3 of 1973, any reference to males in Omani law must also include females. Consequently, women were allowed to apply for the same posts as men and were free to change their position within the judiciary. An increasing number of women were taking up positions in public ministries. The office for the follow-up of the implementation of decisions, one of the most important bodies in the judiciary, was led by a woman. Currently, 39 women worked in the judiciary in various capacities. Women had also been legally permitted to work as prosecutors since 2002.

9. Persons with disabilities were able to apply for all posts within the civil service. Private enterprises must recruit persons with disabilities if the number of employees exceeded 50 persons. In that case, at least 2 per cent of the employees were required by law to be persons with disabilities. A commission on the education of persons with disabilities had been established and three special schools had been set up for such persons. However, a high number of students with disabilities were fully integrated in public schools. Compulsory standards were in place to ensure the accessibility of schools and other public buildings to persons with disabilities. Campaigns had been launched to raise awareness of the needs of such persons and Oman celebrated annually the International Day of Persons with Disabilities as well as World Sight Day. Pursuant to the law, sports and cultural organizations were responsible for promoting the participation of persons with disabilities. Seats were reserved for such persons in public transport and they paid half fare. All government entities cooperated in order to ensure the accessibility of information to persons with disabilities. For instance, sign language training workshops had been held and some programmes were broadcast on television with sign language interpretation.

10. **Mr. Al Balushi** (Oman) said that the Sultanate was increasingly cooperating with the Independent Permanent Human Rights Commission under the Organization of Islamic Cooperation (OIC). The Sultanate had published a brochure on inheritance for women under Islamic sharia in order to clarify any misunderstandings on the issue. The National Human Rights Commission had signed an agreement to publish in a number of United Nations languages a book on human rights in the Islamic world written by a law professor from the University of Cairo. The book compared the content of various international agreements with Islamic sharia and the Commission believed that its publication for a wider audience would clarify a number of points regarding the relationship between Islam and human rights.

11. The death penalty was applied only in cases of murder. The Criminal Code provided for capital punishment in specific cases, such as premeditated murder, murder involving torture and murder of family members. If the family of the victim decided to give up the right to capital punishment, it would not be applied. Moreover, in order for capital punishment to be carried out, judges had to vote unanimously in favour of it and the Grand Mufti of the Sultanate would also have to agree to its use. Capital punishment was not applied to minors or pregnant women. Anyone liable to the death penalty must be provided with legal assistance by the State and, if the individual's rights were not respected in that regard, an appeal could be lodged.

12. Turning to issues relating to personal status, he said that although under sharia law it was generally the husband who could request a divorce, it was possible for the wife to do so if she considered that the marriage could not be saved, in particular if a marriage contract had been entered into by both parties providing for the possibility of divorce at the request of the woman. The law regarding the custody of children in case of divorce had been clarified recently. A judge was required to take into account the best interests of the child, who could for example be asked by the judge to express a preference as to which parent should have custody.

13. A man's share of an inheritance was generally twice as much as that of a woman, but the distribution could vary to take account of the precise circumstances. For example, a brother might inherit twice as much as his sister but be made responsible for paying all household expenses from his share, or a woman relative's share of an inheritance might be larger than that of a more distant male relative. There had also been cases where only the woman relative had received an inheritance.

14. Although the Criminal Code did not specifically define racial discrimination, the courts created jurisprudence in that regard through their decisions. Pursuant to the Basic Law of the State, international treaties, once ratified, had the force of law and the courts could invoke and apply their provisions. The definition of racial discrimination under the Convention was therefore applied in Oman. The Criminal Code severely penalized certain acts involving racial discrimination. Article 130 bis, for example, criminalized incitement to religious or sectarian conflict, the penalty for which could be up to 10 years' imprisonment. Crimes against children and other serious crimes such as human trafficking, which could involve an element of racial discrimination, were also severely penalized. Article 34 of the Criminal Code also criminalized humiliation of a person by means of gestures, speech, writings or images; that provision could be used to punish racial discrimination.

15. With regard to the National Human Rights Commission, he said that it had been established in 2008 and its members had been appointed in 2010. Though funded by the Government, the Commission was entirely independent in allocating its resources and managing its work. It was not answerable to the Executive or to any State institution.

16. **Mr. Bossuyt** (Country Rapporteur) said that the Committee should be provided with information on the outcomes of labour disputes between employers and employees. He requested clarification on whether or not employers of foreign domestic workers could retain those workers' passports, given the reference in paragraph 130 of the State party's report to complaints about that practice, which was theoretically forbidden by law. He wondered why workers should have to ask to have their passports returned and whether employers could refuse such requests. The delegation had stated that the Labour Code made no distinction between workers, irrespective of nationality or gender. If that was true, were domestic workers covered by the Labour Code or only by ministerial decisions, or both?

17. He requested more information on incidents of racial discrimination and the fight against racial discrimination and on citizenship for children born to parents who were not both Omanis. He asked whether a foreign worker who had lawfully resided in Oman for a long period of time had the right to request naturalization. More information should be provided on the number of cases of imposition of the death penalty as well as executions. He asked why the State party had no refugee law and wondered why refugees from countries such as Syria and Afghanistan did not try to enter Oman.

18. **The Chair** said that it should be emphasized that the Committee was seeking detailed information about the practical implementation of the Convention. With regard to the mediation and conciliation committees, for example, she requested information on how the members of those committees were chosen and whether they received any training in

problems related to racial discrimination. With regard to the death penalty, the Committee was likewise particularly interested in knowing whether there were differences in the way it was applied, for example in the case of migrant workers or non-citizens, that might be motivated by racial discrimination.

19. **Mr. Avtonomov** said that he was still unsure whether the Labour Code applied to domestic workers; he would appreciate further clarification of that matter and asked whether the State party intended to ratify the International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189). Although the delegation maintained that there was no discrimination between foreign and native domestic workers, he noted that virtually all domestic workers were foreigners. He also asked for information on what school of sharia law was prevalent in Oman.

20. **Mr. Al Hadrami** (Oman) said that the delegation would provide whatever statistics were available to satisfy the Committee's concerns. Employers were not allowed to retain foreign workers' passports. If any employer violated that rule, the employee had the right to file a complaint. He noted in that regard that labour inspectors helped protect workers' rights. He confirmed that foreign workers could apply for naturalization if they met the relevant requirements, which were available for consultation online; some foreign workers had in fact acquired Omani citizenship.

21. Awareness-raising activities about the Convention included courses for the public on its provisions, information on the work of the National Human Rights Commission, university courses dealing with the Convention, manuals prepared by the Ministry of Education and training of judges, prosecutors and lawyers. With regard to the mediation and conciliation committees, he said that a court would generally decide if a dispute before it would lend itself to mediation and the parties could negotiate on an equal footing. If there were problems of interpretation of the law, senior or retired judges and legal experts could be called on to provide advice to the judiciary.

22. **Mr. Al Rahbi** (Oman) said that he understood that the situation of domestic workers might seem opaque but stressed that his Government cooperated closely with the countries of origin of most foreign workers and continued to work to ensure legal protection for them in Omani society. With regard to the death penalty, he said that there had been two executions in 2015, both for blood crimes, in cases where the families of the victims had refused to waive the right to demand the death penalty before sentencing. His Government viewed the situation of migrant workers in terms of fixed-term work contracts between employers and employees. He noted that Oman was a signatory to, and had largely implemented, a number of International Labour Organization conventions.

23. **Mr. Al Balushi** (Oman) said that, with regard to awareness-raising, it was important to remember that racial discrimination was prohibited and punished in the national legal framework, including under various provisions of the Basic Law of the State, the Criminal Code and the Labour Code. He noted that the Criminal Code specifically prohibited slavery; a museum would soon open in Oman that would show Oman's efforts to eliminate and punish human trafficking and slavery.

24. Turning to freedom of expression, he said that article 29 of the Basic Law guaranteed freedom of opinion and expression within the limits of the law, while article 31 guaranteed freedom of the press in accordance with the conditions and circumstances defined by law. Both individuals and the press had a responsibility to avoid inflammatory or insulting actions.

25. **Mr. Al Rahbi** (Oman) said that he had been a newspaper editor in the 1970s and had witnessed the evolution of attitudes towards freedom of expression and the law. The Oman Journalists' Association, established in 2004, worked to strengthen the professional

competence of journalists. He was confident that the laws relating to freedom of expression would continue to reflect changing attitudes.

26. **Ms. Al Raqishi** (Oman) said that pursuant to Circular No. 2/2006 employers were prohibited from retaining the passports of their workers. Article 312 of the Criminal Code had been amended recently to criminalize failure on the part of an employer to return an employee's passport when requested to do so.

27. **Mr. Kut** observed that, according to the responses in the State party's report (paras. 108-111) to recommendations 14 and 15 of the Committee's previous concluding observations, the Basic Law of the State and other legal instruments, for example the Criminal Code, in particular article 130 bis thereof, contained adequate provisions to curb racial discrimination. He pointed out, however, that although paragraph 105 of the State party's report stated that, pursuant to article 76 of the Basic Law, the Convention took precedence over national laws, it also stated that failure to comply with the Convention was a breach of the law entailing criminal responsibility "if the act is considered an offence". Did that mean that if an act was not considered a criminal offence there could be no prosecution? If the courts could not ensure compliance with the Convention, that would make the notion of supremacy of international instruments meaningless.

28. He expressed concern that there might be a reluctance or indifference on the part of the police, prosecutors and judges to investigate and prosecute racial discrimination when that notion and related offences were only vaguely defined. The delegation should reassure the Committee that the Convention was truly being implemented by providing concrete examples of court cases and decisions penalizing racial discrimination. He also urged the State party to fully align its legislation with the language and definitions set out in the Convention, with a view to ensuring its effective implementation.

29. Children born to an Omani woman and a foreign man were discriminated against under national law, in that they did not hold the same right to Omani citizenship as children born to an Omani man and a foreign woman. He asked whether there were any plans to address that discriminatory provision. He wished to know whether the State party planned to make the necessary changes to the National Human Rights Commission so that it could acquire A status accreditation with the International Coordinating Committee of National Human Rights Institutions.

30. Lastly, given that slavery had not been abolished in Oman until 1970, he asked whether any sociological research had been conducted on the situation of former slaves living in the country.

31. **Mr. Yeung Sik Yuen**, noting that domestic workers were not protected under the Labour Code, urged the State party to rectify that situation. He was convinced of the merits of mediation but was concerned that judges and other judicial officials in courts of first instance might not have sufficient knowledge and experience to mediate cases effectively. While noting the information provided in the State party's report concerning quotas for the employment of persons with disabilities, he remained concerned that some persons with disabilities might still be left without work. He therefore asked whether there were any further incentives for employers to hire them, perhaps in the form of a tax rebate.

32. **The Chair** pointed out that the Committee was mainly concerned about the issues of mediation and employment for persons with disabilities as they related to racial discrimination.

33. **Mr. Al Rahbi** (Oman) said that his Government was fully committed to integrating domestic workers into the Labour Code so as to ensure their full protection. He agreed that the dialogue should focus on racial discrimination and noted that the International Labour Organization (ILO) was responsible for monitoring labour-related issues.

34. **The Chair** said that the Committee was in fact very concerned about the situation of domestic workers and that the issue was directly related to the Committee's mandate, as many domestic workers were migrant workers and were therefore at risk of racial discrimination.

35. **Mr. Al Hadrami** (Oman) said that judges received thorough training in mediation skills and that it was hoped that the use of mediation would speed up judicial proceedings and lighten the courts' workload. Further efforts would be made to improve the mediation process, which he believed to be an excellent alternative to resolving disputes in court.

36. **Ms. Al Raqishi** (Oman) said that no taxes were deducted from the salaries of persons with disabilities. In addition, those persons received financial support in the form of monthly grants and other benefits, as well as mobility and other aids to facilitate their participation in daily life. Persons with disabilities working in the private sector received social security benefits on an equal footing with other workers.

37. **Mr. Al Balushi** (Oman) said that article 130 bis of the Criminal Code had been introduced in 2001 to criminalize incitement to hatred or racial discrimination. Following the adoption of counter-terrorism legislation in 2009, the article had been amended to adapt it to the country's current situation. There had been very few cases of incitement of racial hatred.

38. Pursuant to the Basic Law of the State, international conventions to which Oman was a party formed part of the national legal order. Since penalties for violations were set out not in the international conventions but in national legislation, the conventions were incorporated into national laws so that the courts could then apply them through those national laws.

39. During its most recent universal periodic review, Oman had accepted the recommendation that it should amend certain laws so that its National Human Rights Commission could obtain A status accreditation. His Government had cooperated with the Office of the United Nations High Commissioner for Human Rights to bring the National Human Rights Commission into line with the Paris Principles. The Commission should therefore be a candidate for A status.

40. While it was true that the Commission suffered from a lack of qualified human resources, work was under way to provide training to its staff with a view to conducting a range of educational, cultural and social programmes to enhance citizens' awareness of their human rights. Currently, about 30 such programmes were carried out each year.

41. **Ms. Mohamed** commended the State party for its progress in the advancement of women. She asked whether the Government was aware that recruitment agencies and individuals were recruiting minors from various countries to work in Oman, and whether there was a law governing the operations of such agencies. She also wished to know what was the minimum wage in the country.

42. **Mr. Al Rahbi** (Oman) said that recruitment agencies were indeed subject to regulations issued by the Ministry of Manpower. Their operations were monitored in coordination with the embassies of the workers' countries of origin, and thus far there had been no complaints of abuses by those agencies. Legal penalties were in place, however, to punish any abuses that might occur. The minimum monthly wage was set in national legislation and depended on the worker's level of education. A copy of that legislation could be provided in writing.

43. **Mr. Murillo Martínez** said that he would appreciate further information on the specific measures taken to address the problem of human trafficking. He also requested statistical data on the victims' countries of origin.

44. **Mr. Kemal** said that special measures to provide temporary help to the ethnic groups most sorely in need thereof were the responsibility of the State, whereas *zakat* (alms-giving) was an individual obligation in Islam. He asked whether the Government was implementing any such special measures in the country.

45. **Mr. Al Balushi** (Oman) said that *zakat* (alms-giving) and *waqf* (endowments) were regulated by the Ministry of Endowments and Religious Affairs. The name of that Ministry highlighted the fact that a number of different religions were freely practised in Oman. The Ministry collected alms and redistributed them among low-income families, orphans and other needy persons as a form of humanitarian assistance. The donors themselves did not decide who would receive the alms. A decision had been taken to establish a body that would be responsible for redistributing alms both within and outside the country to help people affected by disasters or humanitarian crises.

46. **Mr. Al Balushi** (Oman) said that recruitment agencies could not recruit persons under the age of 21 and could be fined or even closed down if they violated domestic legislation or Ministry of Labour rulings. Agencies in countries of origin that obtained travel documents in which the age of the worker concerned had been falsified were subject to the laws of the country in which they were operating. The Human Trafficking Act had been enacted to address the issue of illegal recruitment agencies carrying out trafficking in persons both in Oman and abroad and provided for specific cooperation with countries of origin in that regard. The National Committee for Combating Human Trafficking had been set up to implement the above-mentioned Act in cooperation with the judicial system.

47. **Mr. Khalaf** asked whether domestic workers enjoyed the right to freedom of association and whether the National Human Rights Commission could really be deemed to be independent, given that it received government funding and reported to the State Council. All of the articles of the Convention must be incorporated into domestic legislation. He asked for clarification of the role of Islamic jurisprudence in relation to the definition of racial discrimination.

48. He asked whether persons wishing to set up civil society organizations faced restrictions in that regard, whether the Government promoted and supported the activities of such organizations, whether there was any domestic legislation in place on displaced persons, whether Oman played host to any refugees from Syria or Yemen and, if so, whether any specific measures had been taken to protect them.

49. **Mr. Marugán** said that, in its 2006 concluding observations addressed to the State party, the Committee had pointed out that the mere absence of complaints and legal action by victims of racial discrimination might be mainly an indication of the absence of relevant specific legislation, or of a lack of awareness of the availability of legal remedies, or of insufficient will on the part of the authorities to prosecute. The Committee had requested the State party to inform the public about all legal remedies in the field of racial discrimination. He asked whether it was possible that victims of racial discrimination did not lodge complaints owing to fear of reprisals, language difficulties or a lack of awareness of what actually constituted a punishable offence. He further asked what had been done to facilitate the filing of complaints of racial discrimination, what training on the Convention and relevant domestic legislation was provided to public prosecutors, the police and judicial officials and what measures had been taken to establish cooperation with NGOs working with victims of racial discrimination.

50. Further data on the number of trafficking victims identified and the number of cases of trafficking dealt with would be welcome. He asked for additional information on the payment of allowances under the Social Security Act to foreign nationals who had no source of income.

51. **Mr. Al Rahbi** (Oman) said that a number of Syrian refugees had entered the country and that Syrian nationals legally resident in Oman had the right to bring their families to join them. To date, there had been no influx of displaced persons from Yemen; however, the Government stood ready to provide assistance in that regard. Labour relations between employers and foreign nationals were regulated by domestic legislation.

52. **Mr. Al Hadrami** (Oman) said that nothing in the Labour Code prevented workers from exercising the right to freedom of association.

53. **Mr. Al Balushi** (Oman) said that trade union organizations did not distinguish between domestic and other workers and that all workers enjoyed the same rights in that regard. The establishment of civil society organizations was regulated by law. There were more than 170 such organizations in the country and they received funding and support from the Government.

54. **The Chair** asked whether foreign nationals could also join civil society organizations.

55. **Mr. Al Balushi** (Oman) said that foreign nationals could join civil society organizations and could vote in the internal elections of those bodies. Although it was funded by the Government, the National Human Rights Commission was completely independent. The jurisprudence created by the courts regarding the definition of racial discrimination was secular in nature.

56. **The Chair** said that the delegation had not provided answers to questions on welfare payments to foreign nationals and the abolition of slavery and the living conditions of former slaves.

57. **Ms. Shepherd** asked whether there were any people of African descent living in Oman, whether it was planned to implement any activities in the context of the International Decade for People of African Descent and whether efforts to combat stereotypes and discrimination had united the population around common values and helped to ensure respect for the inherent dignity and human rights of Omani citizens and foreign nationals.

58. **Ms. Mohamed** said that the Omani authorities should look closely into the activities of recruitment agencies and the involvement in those activities of foreign embassies and influential private individuals.

59. **Mr. Al Hadrami** (Oman) said that, in addition to historical attempts to eliminate slavery, articles 260 and 261 of the 1974 Criminal Code had criminalized the practice and it had been stamped out in Oman. Information on efforts to combat trafficking in persons could be found on the website of the National Committee for Combating Human Trafficking. There were many Omani nationals of African or Asian descent.

60. **Ms. Al Raqishi** (Oman) said that, in 2014, 18 cases of trafficking in persons had come before the courts, most of which had been resolved in 2015.

61. **Mr. Bossuyt** (Country Rapporteur) said that the exchange with the delegation of Oman had been a fruitful one and asked for information to be provided in writing on the requirements that must be met by migrant workers applying for Omani citizenship, the length of time they must have been resident in Oman and the number of such workers who obtained citizenship. Information on the number of Omani, foreign and domestic workers belonging to trade union organizations would also be welcome.

62. **Mr. Al Hadrami** (Oman) thanked the Committee members for their questions and comments.

63. **The Chair** thanked the delegation of Oman for its participation in the interactive dialogue with the Committee.

The meeting rose at 1 p.m.